

Application No. 10/656,464
Amndt. dated August 25, 2005
Reply to Final Office Action of May 25, 2005

Remarks/Arguments

Claims 1-5, 8-14 and 16 remain pending in this Application.

In the Office Action mailed May 25, 2005, claims 1-5, 8-14 and 16 were rejected under 35 U.S.C. 112, first paragraph for failing to comply with the written description requirement. More specifically, the Examiner took the position that the specification as originally filed did not disclose that the second fabric material comprises fibers having a tensile strength less than 50,000 psi and/or a modulus (less) than 500,000 psi.

Applicant respectfully directs the Examiner's attention to page 9, lines 1-13 which recites in part “[a]t least a portion of the animal chew may include a second, outer layer that is not a high performance layer. In that sense, such non-high performance fibers are those fibers that have mechanical properties less than **those for the high performance fabric recited herein**”. (Emphasis added.) The properties of high performance fibers according to the present invention are defined at page 4, line 20 to page 5, line 4 as recited in claim 1. Thus, the previously amended claim 1 is felt to be fully supported by the specification.

The Examiner further took the position that “the specification also does not define high strength fibers per se as having the recited tensile strength and modulus, but instead defines preferred high strength fibers in this way.” Applicant respectfully disagrees. At page 4, line 20 to page 5, line 4, the specification states that “[t]he high strength fibers used in the fabric material are preferably high performance **polymeric** fibers” (emphasis added). The specification goes on to recite that “[f]ibers consistent with the present invention have a tensile strength that is at least 50,000 psi and above.” See again, page 5, lines 1-2. In

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addition, the specification states that “[t]he fibers included in the fabric materials also may have modulus of 500,000 psi or greater.” See again, page 5, lines 5-6.

In view of all of the above, it is submitted that one of ordinary skill in the art would understand and considered fully supported the language in claims 1-5, 8-14 and 16, and that the rejection under 35 USC 112 has been overcome.

Turning to the art rejections, Applicant notes that the outstanding rejections over the art in the office action of December 10, 2004 were also overcome. Applicant appreciates the Examiner’s indication that such rejections are no longer applicable to the pending claims.

However, turning to the recent 35 U.S.C. 103(a) rejection, the Examiner has stated that the present invention is unpatentable over Denesuk, et al. (United States Patent No. 6,196,156) in view of Jordan (United States Patent No 5,226,384).

The present invention is directed at an **animal toy** comprising a body portion, said body comprising a compressible material and a first fabric material disposed partially over said compressible material, said first fabric material comprising fibers having a tensile strength greater than or equal to 50,000 psi and/or a modulus greater than or equal to 500,000 psi, and a second fabric material partially disposed over said compressible material, said second fabric material comprising fibers having a tensile strength less than 50,000 psi and/or a modulus less than 500,000 psi.

Denesuk, et al. appears to be directed at a **bedding article** for a domestic animal comprising an outer textile casing, an inner filling and a microbe-inhibiting agent applied to at least one of the outer casing or inner filling. The reference is silent as to high strength or high

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performance materials having a tensile strength greater than or equal to 50,000 psi and a modulus greater than or equal to 500,000 psi. While a wide variety of plastic materials are mentioned, they are not being considered for these strength properties. In fact, Denesuk, et al. at column 8, line 64 to column 9, line 1 admits that "Pets, especially dogs, often tear or otherwise damage bedding articles that they use; and they sometimes digest the articles or their components. It is therefore important that the materials are non-toxic and non-carcinogenic at the levels used in the articles".

Thus, Denesuk, et al., the principal reference relied upon at this time, recognizes a problem, suggests nothing to solve the problem and teaches away from the present invention by accepting that the animal may tear and swallow the bedding article.

Jordan, '384 fails to make up for any of the deficiencies of the primary reference of Denesuk et al. Jordan '384 is directed at an **animal bed** having a resilient core, a generally slab shape and a cover over the entirety of the core comprising an aramid fabric sheet and a **polyester fabric sheet laminated to the aramid sheet**. As recited at column 3, lines 18-19 of '384, "[s]urrounding the core 12 and **encasing it on all sides** is cover 14."

The present invention does not include a polyester sheet laminated to an aramid sheet that completely covers an animal bed (Jordan) as recited in amended claim 1. The present invention has a first fabric and a second fabric each **disposed partially** over a compressible material, and the first and second fabric have different mechanical properties. As noted above, this argument and distinction was understood as being accepted by the Examiner as

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distinguishing over the art of Jordan '384, which was a principal reference in the Office Action of December 10, 2004.

Nevertheless, elaborating once again, this feature can be better appreciated in context, as the specification points out that with respect to a chew toy, the high strength fiber may be "selectively positioned on the chew at those locations that are more prone to the chewing or biting action of the animal" (see page 4, lines 17-19). Such feature is not disclosed or suggested in the art of record either taken separately or in combination.

Furthermore, as noted above, Denesuk et al teaches that since animals may tear or otherwise damage the bedding articles, the answer is to make certain that the bed is made from a material which would avoid giving the animal indigestion. On that basis, Applicant questions the basis for combining Denesuk et al with Jordan. Given that Denesuk directs the bedding manufacturer to select ingestible materials, one of ordinary skill in the art would not be inclined to consider anything more than what Denesuk et al suggests, and would not be inclined to even look at Jordan. Rather, they would be inclined to consider other ingestible materials to solve the problem of tearing.

Thus, both cited references, Denesuk, et al. ('156) and Jordan ('384) are directed at **animal beds** which are resistant to microbes and to pests and do not teach or suggest, alone or in combination, an animal toy comprising a body portion, said body comprising a compressible material and a first fabric material disposed partially over said compressible material, said first fabric material comprising fibers having a tensile strength greater than or equal to 50,000 psi and/or a modulus greater than or equal to 500,000 psi, and a second fabric

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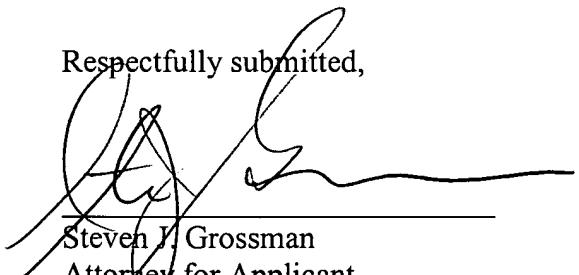
material partially disposed over said compressible material, said second fabric material comprising fibers having a tensile strength less than 50,000 psi and/or a modulus less than 500,000 psi.

Applicant respectfully submits that all claims currently pending in the application are believed to be in condition for allowance. Allowance at an early date is respectfully solicited.

In the event the Examiner deems personal contact is necessary, please contact the undersigned attorney at (603) 668-6560.

In the event there are any fee deficiencies or additional fees are payable, please charge them (or credit any overpayment) to our Deposit Account No. 50-2121.

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service First Class Mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 25, 2005, at Manchester, New Hampshire.

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